

BEFORE THE
POSTAL REGULATORY COMMISSION
WASHINGTON, D.C. 20268-0001

IN THE MATTER OF:

GLENOAKS STATION
BURBANK, CALIFORNIA 91504

DOCKET No. A2013-5

**SURREPLY OF THE UNITED STATES
POSTAL SERVICE TO DR. HUTKINS'S REPLY**
(August 5, 2013)

On July 29, 2013, Dr. Hutkins filed a Reply to the Postal Service Motion to Dismiss Proceedings on behalf of Petitioner Marlene Keables Benda.¹ In his reply, Dr. Hutkins argues that initiating a discontinuance study to close the Glenoaks Station effectively serves as an admission by the Postal Service that the 39 U.S.C. § 404(d) procedures apply to the instant action. The Postal Service has the authority, as a matter of policy, to extend discontinuance study procedures to circumstances, such as the discontinuance of stations and branches or rearrangement of services in a community, to which it submits section 404(d) does not apply. In the Postal Service's view, this authority to extend discontinuance procedures does not include the authority to broaden the scope of the Postal Regulatory Commission's ("Commission") appeal jurisdiction under section 404(d).

¹ Reply to the United States Postal Service Motion to Dismiss (hereinafter "Reply"), PRC Docket No. A2013-5 (July 29, 2013).

ARGUMENT

In his reply to the Postal Service Motion to Dismiss, Dr. Hutkins states that “[w]hen the Postal Service initiated a discontinuance study on the Glenoaks [Station] in 2011, it clearly saw itself as operating under [39 C.F.R. §] 241.3.” Reply at 3. Dr. Hutkins goes on to state that “[i]t makes no sense for the Postal Service to go through a discontinuance procedure on a post office, and then say that the procedure stops with a Final Determination.” *Id.* at 4.

Here, the Postal Service did apply the process described for discontinuance actions contained in Handbook PO-101. However, the mere decision to apply Handbook PO-101 procedures to actions related to stations and branches, such as the rearrangement of services in a community, is not an admission that section 404(d) applies as a matter of law to such units. To the contrary, in 2011, when the Postal Service revised 39 C.F.R. § 241.3, it made clear that it did not consider stations and branches subject to the Commission’s appeal jurisdiction: “With respect to notice of appeal rights concerning stations and branches, the Postal Service does not believe that the authority exists to extend the Commission’s grant of jurisdiction in 39 U.S.C. § 404(d)(5) to the closure or consolidation of a station or branch.” Post Office Organization and Administration: Establishment, Classification, and Discontinuance, 76 Fed. Reg. 41414 (2011). The Postal Service clarified that adopting a policy of applying discontinuance procedures to stations and branches did not “alter the scope of the Commission’s jurisdiction, so it does not change when the public is entitled to notice of appeal rights.” *Id.*

This is also reflected in Handbook PO-101, which provides that “*as a policy decision*, the Postal Service now extends the notice and comment procedures for Post Office discontinuance investigations to discontinuance of classified stations and classified branches.” Customer Service Operations, Postal Service, Handbook PO-101, Post Office Discontinuance Guide, October 2012 Transmittal Letter (2012) (emphasis added). In extending notice and comment procedures to discontinuance actions of stations and branches, the Postal Service intended to increase transparency for actions related to such facilities, but it did not intend to extend the Commission’s jurisdiction over station and branch actions. See 76 Fed. Reg. 41414 (2011).

Similarly, by applying the notice and comment procedures contained in Handbook PO-101 to this rearrangement of retail services, the Postal Service increased transparency for such decisions. The Postal Service did not, however, somehow unwittingly extend the Commission’s grant of jurisdiction in section 404(d) to include actions involving the rearrangement of retail services within a community.

CONCLUSION

In sum, the application of Handbook PO-101 procedures in this case is not tantamount to an admission by the Postal Service that section 404(d) applies to such actions. The instant appeal remains outside the Commission’s jurisdiction.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

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